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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,592	12/07/2000	James Michael Fitzpatrick	193792US25	9232

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

CHARLES, DEBRA F

ART UNIT PAPER NUMBER

3628

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/730,592

Applicant(s)

FITZPATRICK, JAMES MICHAEL

Examiner

Debra F. Charles

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mw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4.5.7</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 50 been renumbered 49.

Claim 23 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim is indicated as depending on claims 1-22. See MPEP § 608.01(n). Accordingly, the claim 23 not been further treated on the merits.

Information Disclosure Statement

2. The IDS received April 30, 2003 with the PCT/US01/44703 has been received and placed in the file and was considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 40 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Reuhl et al.

Re claim 40: Reuhl et al. disclose a first field for storing an item identification corresponding to an item purchased from the plurality of retail stores; and a second field for storing the price paid for said item purchased(Col. 3, Lines 5-67, Col. 4, Lines 35-55, Col. 7, Lines 5-25).

Re claim 44: Reuhl et al. disclose a third field for storing at least one of the inventory list price and a price differential between the inventory list price and the price paid(Col. 12, Lines 1-52).

5. Claims 1, 2, 3, 5, 24, 25, 26 and 28 rejected under 35 U.S.C. 102(b) as being anticipated over Riordan et al. (U.S.PAT. 6078891 A).

Re claims 1 and 24: Riordan et al. disclose obtaining scanned information from a plurality of stores to determine an identification and price paid for purchased items(Col. 1, Lines 35-50, Col. 2, Lines 10-25, Col. 6, Lines 35-60, Col. 7, Lines 1-15,); recording in a price-paid database at least one of an item identification and the price - paid for each of the purchased items(Col. 1, Lines 35-50, Col. 2, Lines 10-25).

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Riordan et al. disclose(s) publishing the price-paid database as market data(Abstract, col. 3, lines 1-67).

Re claims 2 and 25: Riordan et al. disclose obtaining a customer identification associated with each purchased item(Col. 9, Lines 45-60).

Re claims 3 and 26: Riordan et al. disclose scanning at least one of a frequent shopper card, a credit card, a club member card, and a debit card(Col. 4, Lines 13-16).

Re claims 5 and 28: Riordan et al. disclose recording the identification and the price paid for each of the purchased items in a checkout computer(Col. 6, Lines 38-47); and

the recurrently uploading the recorded identification and the price-paid to a central computer containing the price-paid database(col. 3, lines 53-60).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23, 32,33, 38, 39,29,30,31, 34, 35, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riordan et al. (U.S.PAT. 6078891 A) in view of Reuhl et al. (U.S.PAT. 5873069 A).

Re claims 6, 29, 34, 35 and 36: Riordan et al. disclose(s) the claimed invention except comparing the price paid to an inventory list price; recording at least one of the inventory list price and a price differential between the inventory list price and the price paid; and recurrently uploading the at least one of the inventory list price and the price differential to the central computer. However, in Abstract, Col. 3, Lines 1-67, Col. 4, Lines 35-60, Col. 7, Lines 15-21, Col. 10, Lines 15-35 thereof, Reuhl et al. disclose(s) price comparison and integrated price information. It would be obvious to one of ordinary skill in the art to modify the invention of Riordan et al. based on the teachings of Reuhl et al. The motivation to combine these references is to get the benefit of inventory price comparison with other recently quoted prices and for market analysis purposes.

Re claims 7 and 30: Riordan et al. disclose recording at least one of the customer identification and a store identification(Abstract, Col. 5, Lines 1-55, Col. 7, Lines 25-60, Col. 9, Lines 45-67).

Re claims 8, 17, 31, and 37: Riordan et al. disclose formatting the price-paid database into columnar entries, wherein the columnar entries include at least one of the customer identification, the store identification, the purchase item identification, the price-paid(Abstract, Cols. 7, 9 and 10).

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Re claims 9, 18, 32, and 38: Riordan et al. does not explicitly disclose providing on a web page the price-paid database. However, Riordan et al. teach that price paid database is available via remote means. See col. 10 of Riordan et al. providing such in a web page would have been obvious to one of ordinary skill in the art for easy and fast access.

Re claims 10 and 33: Riordan et al. disclose selecting from at least one of a store selection, a customer selection, a brand selection, and a sales category selection within a specified district(Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65). As per the claimed web page see the rejection of claims 9, 18, 32, 38 and 46 above.

Re claims 11 and 20: Riordan et al. disclose determining one of a zip code and an area code of the user; and restricting the specified district to an area within the one of a zip code and an area code(Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65,Col. 10, Lines 1-15).

Re claims 12 and 21: Riordan et al. disclose determining one of a remote district, a regional district, and a national district for the user; and restricting the specified district to an area within the one of a remote district, a regional district, and a national district(Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65,Col. 10, Lines 1-15).

Re claims 13,19,22 and 39: Riordan et al. disclose selecting from the web page price-paid information from stores within a specified district(Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65, Col. 10, Lines 1-15). As per the claimed web page see the rejection of claims 9 and 18 above.

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Re claims 14,15,and 16: Riordan et al. disclose(s) the claimed recurrently requesting transfer of the identification and the price-paid from a checkout computer to a central computer containing the price-paid database.

Re claim 23: Riordan et al. disclose a computer readable medium containing program instructions for execution on a computer system which when executed by the computer system, cause the computer system to perform the method recited in any one of the claims 1-22(Cols. 3 and 4).

7. Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riordan et al. and Reuhl et al. as applied to claim 41 above, and further in view of Negin et al., An Iris Biometric System for Public and Personal Use, February 2000, IEEE # 0018-9162/00.

Riordan et al. and Reuhl et al. disclose(s) the claimed invention except the step of obtaining a customer identification comprises: scanning at least one of a fingerprint, retinal scan, and a signature. However, in all columns thereof, Negin et al. disclose(s) an iris biometric system for public and personal use. It would be obvious to one of ordinary skill in the art to modify the invention of Riordan et al. based on the teachings of Negin et al. The motivation to combine these references is to get the benefit of a secure, reliable form of customer identification.

8. Claim 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuhl et al. and Riordan et al. as applied to claim 41 above, and further in view of Negin et al., An Iris Biometric System for Public and Personal Use, February 2000, IEEE # 0018-

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9162/00.

Reuhl et al. and Riordan et al. disclose(s) the claimed invention except the step of obtaining a customer identification comprises: scanning at least one of a fingerprint, retinal scan, and a signature. However, in all columns thereof, Negin et al. disclose(s) an iris biometric system for public and personal use. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. and Riordan et al. based on the teachings of Negin et al. The motivation to combine these references is to get the benefit of a secure, reliable form of customer identification.

9. Claims 41,42,45,46,47,48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuhl et al. in view of Riordan et al.

Re claims 41 and 42: Reuhl et al. disclose(s) the claimed invention except a third field for storing a customer identification and scanning at least one of a frequent shopper card, a credit card, a club member card, and a debit card. However, in Col. 4, Lines 13-16, Col. 9, Lines 50-60 thereof, Riordan et al. disclose(s) database fields for storing data and scanning a magnetic strip card. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is the enhanced security of associating customer identification with the relevant card.

Re claims 45: Reuhl et al. disclose(s) the claimed invention except disclose formatting the price-paid database into columnar entries, wherein the columnar entries include at least one of the customer identification, the store identification, the purchase

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item identification, the price-paid. However, in Abstract, Cols. 7, 9 and 10 thereof Riordan et al. disclose a data warehouse has columnar entries. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to enable organization of data in a database because columnar entries enable fast storage and retrieval of data.

Re claims 46: Reuhl et al. disclose(s) the claimed invention except providing on a web page the price-paid database. However, Riordan et al. teach that price paid database is available via remote means. See col. 10 of Riordan et al. providing such in a web page would have been obvious to one of ordinary skill in the art for easy and fast access.

Re claim 47: Reuhl et al. disclose(s) the claimed invention except selecting from at least one of a store selection, a customer selection, a brand selection, and a sales category selection within a specified district. However, as Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65, thereof Riordan et al. disclose the customer selects data from an array of items which he desires to purchase. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to provide a comprehensive database from which to retrieve data items. As per the claimed web page see the rejection of claims 9, 18, 32, 38 and 46 above.

Re claim 48: Reuhl et al. disclose(s) the claimed invention except permitting

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selection from the price-paid information by one of a user zip code and a user telephone area code. However, in Col. 4, Lines 25-60, Col. 5, Lines 1-15, Col. 6, Lines 40-65, Col. 9, Lines 45-60, Col. 10, Lines 1-15 thereof Riordan et al. disclose different fields in the database showing customized data available for retrieval. Doing the same from a web page would have been obvious to one of ordinary skill in the art thereby providing remote access of the stored data.

Re claim 49: Reuhl et al. disclose(s) determining one of a remote district, a regional district, and a national district for the user; and restricting the specified district to an area within the one of a remote district, a regional district, and a national district. However, in Col. 4, Lines 25-60, Col. 5, Lines 1-15, Col. 6, Lines 40-65, Col. 10, Lines 1-15 thereof Riordan et al. disclose customized fields that include locations. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to quickly implement customized retrieval using customized fields.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Debra F. Charles
Examiner
Art Unit 3628

DFC
DEBRA F. CHARLES
PATENT EXAMINER
AU 3628
